



AUSTRALIAN INDUSTRY

GROUP

Ai Group Submission

in response to the
*Consultation Regulation Impact Statement:
National Legislation for Appliance and Equipment Minimum Energy Performance Standards (MEPS)
and Energy Labelling.*

March 2010

EXECUTIVE SUMMARY

The Australian Industry Group (Ai Group) welcomes the opportunity to comment on *Consultation Regulation Impact Statement (Consultation RIS): National Legislation for Appliance and Equipment Minimum Energy Performance Standards (MEPS) and Energy Labelling*.

Ai Group's response to the *Consultation RIS* builds on our earlier response to the Discussion Paper in September 2009 and is based on substantial consultation with industry through Ai Group's networks.

Ai Group welcomes the undertaking of the *Consultation RIS* and is broadly supportive of the proposed move to nationally consistent and efficient regulation of minimum energy performance standards (MEPS) and labelling requirements encompassing a rationalisation of existing regulations in the various government jurisdictions.

It is essential that outcomes from a move to national legislation benefit all stakeholders: industry, community, environment and government.

Importantly, Ai Group supports the objectives of national legislation to provide a vehicle for expanding the MEPS and energy labelling program to improve the energy efficiency of appliances and equipment only where this is proven to be the most appropriate and cost-effective effective means of addressing market failure.

Ai Group supports *Option 3b* as a model that offers substantial merit to ensuring national consistency that will leverage constitutional powers of the Commonwealth. This option must be underpinned by implementation of a formal mechanism to ensure effective involvement of industry and state stakeholders in decision making in advance of implementation of reforms.

Ai Group does not support;

- Overriding of standards developed within Standards Australia and its framework;
- the requirement to report annually on the national import, sales or supplies for each registered model as it will add at least 3% to the cost base as well as the potential of compromising confidential information.
- Mandatory labelling requirements on expansive material.

Ai Group recommends:

- Guaranteed engagement and consultation with industry and other relevant stakeholders prior to implementation of any changes to the scheme.
- That no final decision is made until the review of the WELS program is complete and recommendations implemented.

RESPONSE TO THE CONSULTATION REGULATORY IMPACT STATEMENT

Ensuring national consistency covering appliances and equipment MEPS and labelling

The recommended model assumes that the *Commonwealth* has the necessary powers to legislate in this area. In the case of *Option 3b*, the model ensures relevance to one set of legislation, thus guaranteeing national consistency.

Ai Group recognises that without national consistency our members will continue to be impacted by differences in:

- definitions/interpretation of key terminology;
- penalty amounts and the calculations and application of penalties;
- commencement dates for new or amended regulations; and
- transitional periods and arrangements, including 'grandfathering' of products when new or amended standards are introduced.

The benefits of national consistency may vary, depending on the product, industry and associated costs, and include:

- greater certainty for investment in capital equipment, stock and marketing activities in the short, medium and long term;
- reduced adverse competitiveness impacts on Australian industry through reduction in of the number of non compliant product or suppliers in the Australian market;
- cost savings through more orderly business activities - especially during the introduction of new or improved products as a response to new MEPS or labelling requirements;
- reduced administrative costs; and
- encouragement of innovation through new product development.

Learning from the WELS model

In developing the national legislative framework it is essential that the problems which have been experienced with the WELS program are avoided. Ai Group's submission to the *Discussion Paper* on proposed national legislation for MEPS and Energy Labelling noted a number of concerns with the WELS model, including an increased focus on use of Ministerial Determinations and less use of consultation and consensual processes (e.g. via Standards Australia Committee WS-032). This issue is of major concern to many stakeholders impacted by WELS.

Ai Group encourages greater cooperation with Standards Australia and considers it essential that the National Legislation for Appliance and Equipment Minimum Energy Performance Standards and Energy Labelling not impact the independent nature or process governing the development of relevant technical standards or committees.

Guaranteeing effective consultation with industry stakeholders

Ai Group considers essential the implementation of an effective system of formal engagement with stakeholders to guarantee improved consultation with industry prior to implementation of any changes to the scheme. Ai Group would be pleased to be actively engaged in this process.

This should be used as a mechanism to address issues of unintended environmental impact such as those associated *Product Stewardship* issues and ensure that the MEPS process is consistent with and complimentary to other policy objectives.

Ai Group suggests creating an independent board or other statutory body that will oversee consultation processes.

Expansion of MEPS coverage

As detailed in our response to the *Discussion Paper* on proposed national legislation for MEPS and Energy Labelling, Ai Group supports national legislation where this provides national consistency and addresses problems with the current system and legislation which have all limited the effectiveness and credibility of the MEPS and Energy Labelling programs.

Ai Group supports introduction of a nationally consistent policy and legislative framework to streamline governance arrangements and reduce transaction costs businesses. Ai Group further supports a move to national legislation to provide a vehicle for expanding the MEPS and energy labelling program to improve the energy efficiency of appliances and equipment where this is proven to be the most appropriate and cost-effective effective means of addressing market failure.

The *Consultation RIS* recommends that the national framework contain enabling provisions to expand the coverage of MEPS in the following areas, with implementation of specific initiatives to be subject to regulation impact assessment on a case by case basis:

- expand coverage to products using forms other than electricity;
- expand coverage of non-energy-using products which impact on the energy use or efficiency of regulated products;
- labelling or otherwise indicating the greenhouse gas impacts of covered products;
- setting greenhouse gas-intensity standards for covered products; and
- minimising the (non-energy) environmental impacts of regulated products.

There is a crucial step missing in this process. AiGroup contends that before a regulation impact assessment is undertaken, assessment must first be undertaken of whether a problem exists, and whether legislation is the most appropriate and effective response. Application of powers to expand the coverage of MEPS should be undertaken only following confirmation that there is market failure and the undertaking of a thorough cost benefit analysis of whether an expansion of MEPS is the most efficient manner of addressing the specific identified market failure.

Requirement to report annually on the national import, sales or supplies for each registered model

The *Consultation RIS* note that the New Zealand regulations require suppliers of registered models to report the numbers imported, sold and re-exported. It is disappointing that the *Consultation RIS* does not include assessment of the costs, efficiency and benefits of the New Zealand model.

Ai Group's member companies query the rationale for imposing this requirement and its significant associated costs on industry given the availability of much of this information from commercial organisations. Consultation with members suggests that reporting requirements will add at least 3% to the cost base of products.

Ai Group member companies have also raised the concern regarding the potential for confidentiality to be compromised.

Ai Group cannot support this recommendation at this time in the absence of a detailed cost benefit analysis supporting its introduction and moreover development of a significantly greater understanding and definition of supply chain dynamics.

Excessive mandatory labelling requirements

Also of concern to Ai Group is the recommendation that the regulatory framework include requirements to display label images or key data prominently when products are displayed, promoted, marketed, sold or supplied at any point in the supply chain and in any product specification, brochure, advertising, magazine, catalogue and website where registered product is profiled.

Some member companies consulted by Ai Group in preparing this submission have noted that much of the advertising of their product is outside of the control of the manufacturer and the costs to manufacturers of ensuring that products are correctly represented in external marketing or informational material would be significant. Again Ai Group cannot support this recommendation at this time in the absence of a detailed cost benefit analysis supporting its introduction.

ABOUT Ai GROUP

The Australian Industry Group (Ai Group) is a leading industry association in Australia. Ai Group member businesses employ around 750,000 staff in an expanding range of industry sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other related service industries.

In response to the *Consultation RIS*, Ai Group conducted industry consultations with members of our Electrical Appliances and Accessories Forum and the Environment Working Groups.

Electrical Appliances and Accessories Forum

Electrical Appliances & Accessories (EA&A) Forum addresses the technical and regulatory environment affecting supply of electrical appliances and electrical accessories through interaction with regulators and participation in standards bodies. This Forum is particularly focused on electrical safety, energy efficiency and environmental issues associated with appliances.

Environment Working Group

Ai Group's Environment Working Groups (NSW, Qld, SA and Vic) are networks of key contacts from Ai Group member companies who meet regularly to consider policy and regulatory issues impacting on their operations and to provide input into Ai Group's policy development.